
CHAPTER 3 • ACQUISITION AND MANAGEMENT OF LEASES

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C. THE AGENCY-PROCURED LEASE

A. THE ROLE OF DCAM AND THE AGENCY; AN OVERVIEW

This Manual sets forth new and streamlined methods for acquiring leased space. Detailed information is found in Chapter 4. Before reviewing in detail the procedures and documents which provide the framework for the procurement, it is important to understand the role and responsibilities of DCAM and the Agency.

THE ROLE OF DCAM

PROCUREMENT OF LEASED SPACE

Under M.G.L. Chapter 7, DCAM is responsible for acquiring leased real property on behalf of the Commonwealth for use by state agencies. DCAM is designated as the central repository for all rental agreements and is required to retain copies of all disclosure statements of persons having a beneficial interest in leased property.

Under Chapter 7, the DCAM Commissioner may delegate to an Agency the authority to lease real property, provided that the Commissioner approves each transaction. As stated below, DCAM has defined the delegation of authority to acquire leased space to include the authority to execute the lease on behalf of the Commonwealth, including certification of compliance with the statutory advertising requirements, and responsibility to retain copies of all delegated leases and associated statements of beneficial interest.

STANDARDS FOR FACILITY PLANNING AND REAL ESTATE TRANSACTIONS

DCAM is responsible for establishing and maintaining standards for facilities planning, including standards and guidelines for utilization of space for staff and other office areas; for the tenant improvements and building conditions required to meet the Agency's programmatic needs; and standards for delivery of services to the leased premises during the term of a lease. These standards are contained in Chapter 4A.

In addition, DCAM's standard forms for leasing and Request for Proposals are designed to communicate the Agency's programmatic needs in an organized format (Facility Plan Form 1) to others within the Commonwealth and, through the Request for Proposals, to potential landlords. Additional standard forms provide for the structured evaluation of proposals received and recommendation for selection of the most advantageous proposal (Agency Recommendation Form 2 and Proposal Evaluation Form 2A); summarizing the terms of the lease transaction (Transaction Approval Form 3) and for internal communication on the termination of occupancy and the rental obligation (Agreement Termination Form 4). Chapter 4B contains the standard forms and instructions; Chapter 4C contains the Request for Proposals.

DCAM is also responsible for developing and maintaining standard documents necessary for the leasing of real property, including the Commonwealth Standard Office Lease, form Lease Amendment, and related documents. These documents and accompanying instructions for completion and execution are contained in Chapter 4D.

Taken together, these materials effectively establish and communicate state policy and practice on matters relating to the leasing of real property.

COMPREHENSIVE LISTING OF ALL RENTAL AGREEMENTS

Under M.G.L. Chapter 7, DCAM is responsible for maintaining an accurate listing of all of the Commonwealth's active rental agreements and for filing periodic reports with the Legislature on the Commonwealth's leasing activity.

PRIMARY CONTACT WITH REAL ESTATE COMMUNITY

DCAM is the Commonwealth's primary contact with the brokerage community and is the agency responsible for maintaining information on the real estate market statewide. Utilizing such information, DCAM is responsible for developing and communicating proposals for strategic decision-making for the Commonwealth's leasing activity.

SUPPORT AND TECHNICAL ASSISTANCE

DCAM will train and provide technical support to Facilities Directors, staff and Agency Counsel. DCAM, in conjunction with the Agencies, will strive to improve the planning and coordination of state leasing activity.

DCAM plans to institute a systematic procedure for maintaining information about the Commonwealth's current and past landlords, based upon written evaluations by DCAM project managers and Agency personnel, and correspondence to landlords concerning performance under the terms of a lease.

THE ROLE OF THE AGENCY

PLANNING AND BUDGETING

The Agency is responsible for planning, budgeting, and payment of rent and related occupancy costs. For a facility in transition, this may include procurement and management of contracts for professional services such as space planning, moving of furniture and equipment, and installation or relocation of furniture and equipment ranging from systems furniture and copiers to telephone systems. Planning should include projecting the timing and future cost of all activity and obligations, and strategies to minimize cost and disruption to agency operations.

The Agency is responsible for developing an overall facilities plan which is the framework for individual plans and decisions affecting specific facilities or operations. This overall plan, referred to as the Annual Facilities Statement, should begin with policy statements about the Agency's operations and should trace through the impact of these policies on facilities needs. Based on this, the Agency then develops specific programs and statements of need for each office or facility. To the extent that this statement of need includes the acquisition of leased space or a change in conditions of existing leased space, the Agency is responsible for development of the Facility Plan Form 1 which includes a description of the amount and types of space required and building features and services necessary to support operations.

DEVELOPMENT OF THE SCHEMATIC SPACE PLAN

The Agency is responsible for development of the schematic space plan. This space plan is developed based upon the tenant improvement specifications and Space Allocation Schedule of the RFP and the measured drawings of the selected premises. This plan becomes an exhibit to the lease along with the specifications of

the RFP as they may have been revised by the selected proposal and further discussion with the selected proposer. The landlord is obligated to complete the premises in accordance with this plan and the associated specifications. The Agency should determine in its planning for each facility how the schematic space plan will be completed. The Agency may contract for the professional services of an architect or space planner, utilize the services of a selected systems furniture company to develop portions of the plan, or prepare the plan in-house.

LEASE MANAGEMENT

The Agency plays an important role in monitoring the landlord's compliance with the terms of the lease. Once a lease has been executed, the Agency monitors the Landlord's completion of tenant improvements in accordance with approved plans and the specifications and the construction schedule of the lease. Upon commencement of the lease term for a leased office or facility, the Agency has the primary contact with the landlord with respect to building management and delivery of services in accordance with the terms of the lease.

PAYMENT FOR SERVICES

In some instances, the Agency may have determined that it would directly procure and pay for building services, such as utilities or janitorial services. It is important that the Agency plan and budget for all services related to its leased offices and facilities.

RECONFIGURATION; NEW EQUIPMENT

If, during the term of a lease, the Agency determines that the space must be reconfigured to meet basic programmatic requirements, or that new equipment must be installed which requires work to be performed in the premises, the Agency should determine how to most effectively meet its needs and must articulate a proposed plan or solution in the context of the terms of the lease.

B. THE DCAM-PROCURED LEASE

If DCAM is procuring the lease on behalf of the Commonwealth and in partnership with the Agency, DCAM issues the Request for Proposals for the new lease and is responsible for actions related to the RFP. DCAM makes the proposal selection based upon joint evaluation of proposals received, takes the lead in finalizing the lease, and executes the lease on behalf of the Commonwealth.

As stated in the section above, the Agency is responsible for completion of the schematic space plan which is an exhibit to the lease. The Agency has primary responsibility for monitoring the activity of the landlord during design and buildout of the leased space. Agency personnel have primary contact with the landlord during the term of the lease.

C. THE AGENCY-PROCURED LEASE

If the Agency determines that its needs will best be met through procurement of a lease under delegation of authority from the Commissioner of DCAM, pursuant to M.G.L. Chapter 7, the Agency is responsible for preparing a delegation request in accordance with the procedures and standards contained in this Manual. Chapter 4D contains specific materials relating to delegation of authority.

The Agency is responsible, under a delegation of authority from DCAM, to acquire leased space consistent with Chapter 7, this Manual and the provisions of the DCAM approval of the request for delegation of authority. For example, the Agency is responsible for compliance with the Central Register notification requirements contained in M.G.L. Chapter 7 §40H; retention of disclosure statements of persons having a beneficial interest in real property and a copy, with original signatures, of all such leases. The Agency is responsible for notification to the Central Register of the name of the Landlord selected for a lease and the amount of the transaction, the average annual rent. The Agency is responsible for complying with the provisions of this Manual, and for using the standard documents and materials contained herein.

The Agency is responsible for executing the lease and for obtaining DCAM approval of the specific transaction. DCAM approval will be based upon the Agency certification that it has complied with the requirements of Chapter 7 and the terms of the delegation approval. DCAM is then responsible for sending notice to the Joint Committee on Administration of the approved transaction.

DCAM will complete a post-transaction review of Agency-procured leases. The purpose of this review is to determine whether the Agency is effectively carrying out the terms of the approved delegation of authority. In addition, it enables DCAM to determine whether the established system is functioning smoothly or whether changes should be implemented. Please refer to Chapter 4 for additional information.